

United States
Circuit Court of Appeals
For the Ninth Circuit.

NG FOOK,

Appellant,

vs.

MARIE A. PROCTOR, United States Commissioner of Immigration at the Port of Seattle,
Appellee.

Transcript of Record

Upon Appeal from the District Court of the United States
for the Western District of Washington,
Northern Division.

FILED

NOV 25 1936

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Circuit Court of Appeals

For the Ninth Circuit.

NG FOOK,

Appellant,

vs.

MARIE A. PROCTOR, United States Commissioner of Immigration at the Port of Seattle,
Appellee.

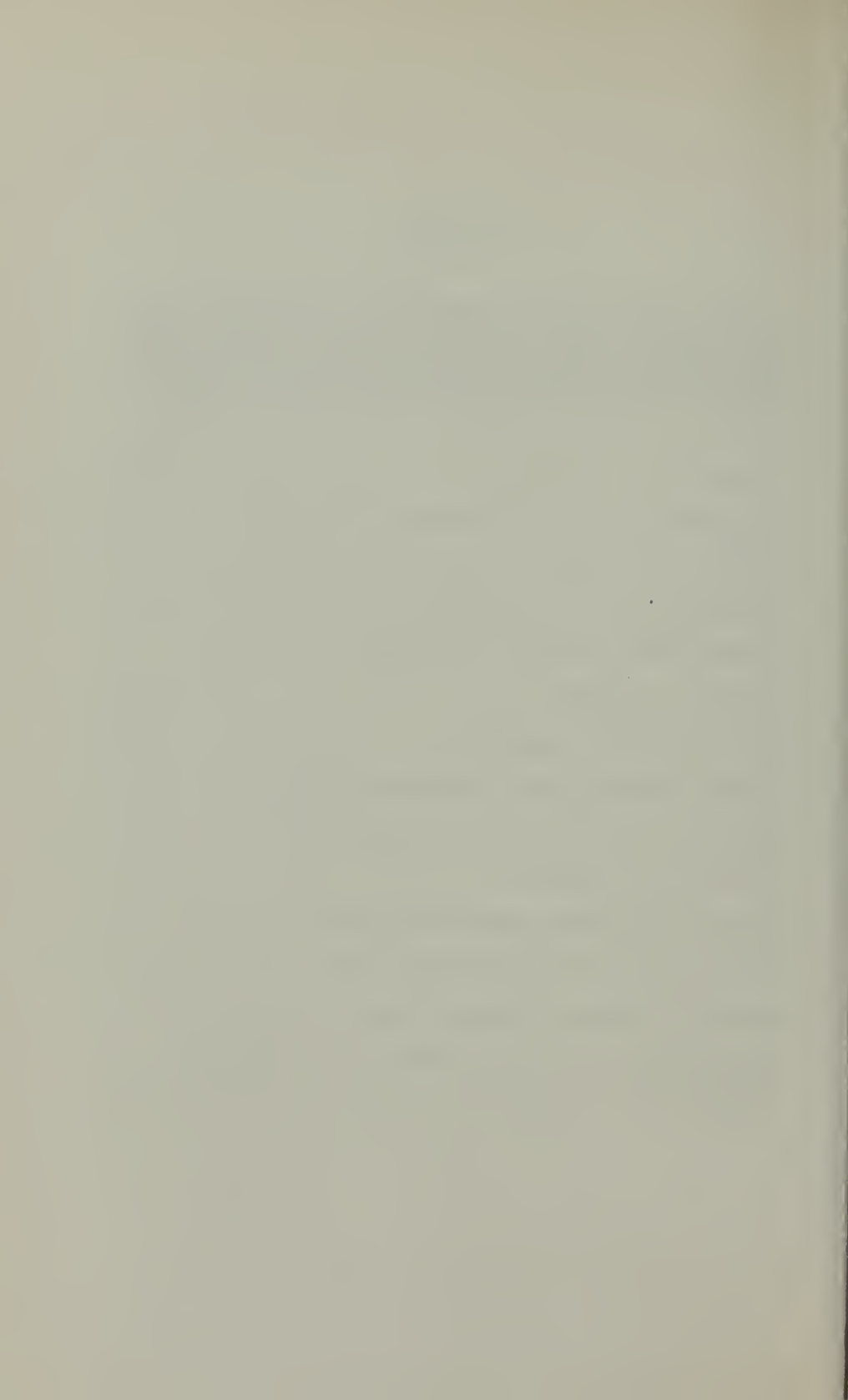
Transcript of Record

Upon Appeal from the District Court of the United States
for the Western District of Washington,
Northern Division.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF COUNSEL.

MR. EDWARD H. CHAVELLE,

Attorney for Appellant,
315 Lyon Building,
Seattle, Washington.

MESSRS. J. CHARLES DENNIS and

F. A. PELLEGRINI,

Attorneys for Appellee,
222 Post Office Building,
Seattle, Washington. [1*]

In the District Court of the United States for the
Western District of Washington, Northern
Division.

No. 21041

In the Matter of the Application of

NG FOOK

For a Writ of Habeas Corpus.

PETITION FOR WRIT OF HABEAS CORPUS.

To the Honorable Judge of the Above Entitled
Court:

Comes now your petitioner, Edward H. Chavelle,
attorney for Ng Fook, son of Ng Ming Yin, a citi-
zen of the United States, and files this his petition

*Page numbering appearing at the foot of page of original certified
Transcript of Record.

for a writ of habeas corpus for the said Ng Fook, and respectfully represents and shows:

I.

That the grandfather of the applicant Ng Fook, whose name was Ng Fun, was born in the Hawaiian Islands on August 13, 1885. This fact is attested by a certificate signed and sealed by the proper officer in the Hawaiian Islands, attesting the fact that the said Ng Fun was born in the Hawaiian Islands. Prior to 1902 the said Ng Fun left the Hawaiian Islands and went to China, where in 1902 there was born to him the father of the applicant, Ng Ming Yin. The latter has been recognized by the immigration authorities as a citizen of the United States, and this is conceded by the government, and he has made frequent and periodic trips from the United States to China and has returned without question and has always been issued a return certificate No. 430. The applicant herein is the son of Ng Ming Yin.

II.

That, being a citizen of the United States, the applicant applied for admission to the Commissioner of Immigration and Naturalization at the Port of Seattle as a citizen of the United States; that thereupon and thereafter, at a hearing on said application before said Commissioner and before a Board of Special Inquiry convened under the law by said Commissioner to pass upon said application and find and determine the truth thereunder, there

was then and there presented to and taken by said Board testimony and evidence tending to show and showing the citizenship of [2] the applicant and his right to admission to the United States.

III.

That, notwithstanding the facts as hereinabove set forth and the testimony presented to the Board of Special Inquiry, establishing the United States citizenship of your applicant, as aforesaid, and notwithstanding that said evidence and testimony before said Board stood and now stands uncontroverted by any material testimony, and further that the government at no time has raised any serious question as to the facts in the case, and the whole issue, as is impliedly conceded by the records of the immigration department and the rulings and the briefs submitted, is one of law, and the question raised is whether or not Ng Ming Yin, who was born in 1902 in China, took the United States citizenship of his father, Ng Fun, who was born in the *the* Hawaiian Islands, the government has contended, and the Board of Special Inquiry held, that said Ng Ming Yin, the father of the applicant, did not take the United States citizenship of his father, by reason of the fact that at the time of his birth the English common law rule that a child born abroad of a father who was a subject of England did not take the nationality of his father. Thus it is apparent that the Board of Special Inquiry decided this matter upon a question of law, and it is con-

tended by the applicant that in deciding said question of law they were in error as will be more particularly set out in the following paragraphs of this petition.

IV.

That thereupon and thereafter, on appeal from said order of rejection and deportation to the Honorable Secretary of Labor, said order was by her on June 3, 1936, affirmed and said appeal dismissed, all with the full knowledge on the part of said Commissioner and Board at the Port of Seattle and said Secretary of Labor of the proofs of citizenship and parentage and other convincing evidence so taken and filed in the proceedings; their action being so taken arbitrarily, capriciously, wrongfully and unfairly, against the interest and rights of the applicant, for the reason that they in effect concede all of the facts which are contended by the applicant herein, but refuse him admission [3] upon the basis of a legal proposition which is not the law and has no application to the rights of the applicant herein.

V.

That both the Board of Special Inquiry and the Secretary of Labor impliedly admit the facts contended by the applicant herein, but base their decision upon an erroneous conception of the law applicable. They were clearly in error when they took the position that the English common law rule was applicable so that the father of the applicant, Ng Ming Yin, could not have taken the United States

citizenship of his father, the grandfather of the applicant. There is no dispute but what the grandfather of the applicant herein was born in the Hawaiian Islands. This is attested by a birth certificate bearing the proper seal of the officer, and there is no evidence to controvert this; and further, there can not be any dispute that a person born or naturalized in the Hawaiian Islands automatically became a citizen in 1894. Article 17, Section 1, of the Constitution of the Republic of Hawaii, adopted in 1894, provides:

“All persons born or naturalized in the Hawaiian Islands, and subject to the jurisdiction of the Republic, are citizens thereof.”

And further, that all citizens of the Republic of Hawaii automatically became citizens of the United States under the annexation act of 1900 making the Hawaiian Islands a territory of the United States and setting up a territorial government. Section 4 thereof provides:

“All persons who were citizens of the Republic of Hawaii on August twelfth, eighteen hundred and ninety-eight, are hereby declared to be citizens of the United States and citizens of the Territory of Hawaii.”

VI.

The basis of the law of the Secretary of Labor and the Board of Special Inquiry to the effect that the common law rule applied to the birth of the father of the applicant, the English common law

being that a child born of a citizen in a foreign country does not take the citizenship of his father, is based solely upon Section 1100 of the Civil Laws of Hawaii, originally [4] enacted in 1892, (this Section can be found in the Revised Laws of Hawaii, 1925, Volume 1, Chapter 1, Section 1, Title 1) to the effect:

“The comon law of England, as ascertained by English and Americen decisions, is hereby declared to be the common law of the Hawaiian Islands in all cases, * * *”

Now, the Board of Special Inquiry and the Secretary of Labor held that this was a complete wording of the statute at the time of the birth of the father of the applicant in 1902. The applicant contends, however, that there was a part omitted from this statute, which was in effect at the time of the birth of the father of the applicant, which reads as follows:

“* * * except as otherwise expressly provided by the Constitution and Laws of the United States and the Laws of the Territory fixed by Hawaiian judicial procedure or usage * * *”

It is the contention of the applicant herein that this latter provision was a part of the law in 1902, when the father of the applicant was born, although the compilation of the code from the original session laws, which are not available to the applicant, leaves

some doubt as to the actual date when this latter part was either added on or became concurrently a part of the above provision.

VII.

Moreover, it is contended by the petitioner that this is immaterial, due to the fact that under the annexacion act which made the territory of Hawaii a territory of the United States and set up a territorial government, the laws and Constitution of the United States became a part of the organic law of the government of Hawaii under the sovereignty of the United States and therefore became a part of the Constitution of said government. Section 5 of said act provided:

“That the Constitution and Laws of the United States are locally applicable (with some exceptions immaterial here) to the same force and effect in the territory as elsewhere in the United States.”

VIII.

Thus, it is apparent that the statutes of the United States with respect to citizenship in 1900 automatically became a part of the laws of Hawaii. Moreover, a case decided in 190 [5] U. S. Page 197, United States Supreme Court, makes clear that in 1900 the annexation act made the Constitution and Laws of the United States a part of the laws of the Territory of Hawaii. At that time there had been in effect for many years an act with respect to chil-

dren born of citizens without the limits of the United States, which was passed in 1802 with certain amendments in 1885. The statute as it existed from 1885 up until 1907 will be found to be identical with the first sentence of 8 U. S. Code Annotated, Section 6; that is to say, that the latter sentences were added at or subsequent to 1907; the first sentence reads as follows:

“All children born out of the limits and jurisdiction of the United States are declared to be citizens of the United States, but the rights of citizenship shall not descend to children whose fathers never resided in the United States.”

Therefore, there can be do dispute about the fact that in 1902, the date of the birth of the father of the applicant, that under the laws of the Territory of Hawaii the father of the applicant automatically became a citizen of the United States, by reason of the fact that he was born the son of a citizen of the United States, regardless and irrespective of the fact that he was born in China.

This fact is recognized by a decision of the Hawaiian Supreme Court in 1 Hawaiian Reports, 118, decided in 1901. Quoting from the opinion of the court:

“. . . and the rules of international law will prevail that in the absence of any enactment in relation thereof, and (that) the citizenship of the children followed that of the father, in this case a subject of China were it not for the Constitution.”

The government has heretofore relied upon a decision of the Circuit Court of Appeals from this district, in 69 Federal 2nd, page 681, which holds under certain facts that the son of a citizen of the United States who became a citizen by virtue of the fact that all citizens of the Republic of Hawaii were made citizens of the United States at the time of the annexation of Hawaii, did not take the citizenship of the father. However, that case is not at point here, because a careful reading of the same [6] will disclose that the petitioner in that case was born in 1894 in China, which was prior to the annexation act of 1900, which in any event incorporated the laws and statutes of the United States with respect to citizenship. The petitioner in that case was unfortunate in not being born subsequent to 1900. In other words, *nad* the petitioner been born subsequent to that date, it is evident that he would have automatically become a citizen of the United States, for the reason that at that time the statutes with reference to citizenship of persons born abroad of citizens of the United States provided that they automatically became citizens of the United States.

The applicant here, however, is more fortunate in that his father was born in 1902, of a citizen of the United States, and in this connection it should be further pointed out that the father has on numerous and repeated occasions returned to the United States, so as to bring him within the provisions of the statute (8 U. S. Code Annotated, 6) to the effect that the rights of citizenship shall not descend to

children whose fathers have never resided in the United States.

IX.

That, notwithstanding the facts as above set forth, said Ng Fook is now detained, imprisoned, confined and restrained of his liberty by the Honorable Marie A. Proctor, United States Commissioner of Immigration and Naturalization at the Port of Seattle, at and in the Immigration Station in the City of Seattle, County of King and State of Washington, in the District aforesaid, and within the jurisdiction of this court, said detention, imprisonment, confinement and restraint being for the pretended and supposed reason that, notwithstanding the facts as hereinbefore set forth, said Ng Fook is not entitled to admission into the United States.

X.

That the said detention, imprisonment, confinement and restraint of the said Ng Fook is not upon or under any process issued by any final judgment of any court officer or body having authority in the premises to commit, nor upon any warrant [7] issued from this court, nor from any court upon any indictment or information.

XI.

That the applicant has made satisfactory arrangements with the Commissioner of Immigration and Naturalization at Seattle in regard to the monetary deposit as maintenance charges and expenses of the applicant pending this proceeding.

WHEREFORE, your petitioner prays that an order be issued herein, ordering and commanding the said Honorable Marie A. Proctor, as Commissioner aforesaid, to appear in this court on the 22nd day of June, 1936, at 10:00 o'clock A. M., and show cause why a writ of habeas corpus should not issue herein; and that, upon said hearing, a writ of habeas corpus issue in due form as provided by law; and that, pending further proceedings herein, said Commissioner of Immigration and Naturalization be enjoined and restrained from deporting said Ng Fook, the applicant herein.

EDWARD H. CHAVELLE

Petitioner.

Edward H. Chavelle

Attorney for Applicant

315 Lyon Building

Seattle, Washington

State of Washington

County of King—ss.

EDWARD H. CHAVELLE being first duly sworn, upon his oath deposes and says: That he is the above named petitioner; that he has read the foregoing petition, knows the contents thereof and believes the same to be true.

EDWARD H. CHAVELLE

Subscribed and sworn to before me this 9th day of June, 1936.

[Seal]

HOWARD W. HEDGCOCK

Notary Public in and for the State of Washington,
residing at Seattle.

[Endorsed]: Filed Jun 9, 1936. [8]

[Title of Court and Cause.]

RETURN TO ORDER TO SHOW CAUSE.

TO THE HONORABLE JOHN C. BOWEN,
Judge of above entitled Court:

Comes now the respondent, MARIE A. PROCTOR, as United States Commissioner of Immigration and Naturalization at the Port of Seattle, Washington, and, for answer and return to the Order to Show Cause entered herein, certifies that the said NG FOOK has been detained by this respondent since the time he arrived from China at the Port of Seattle, Washington, to wit: February 1, 1936, as an alien Chinese person not entitled to admission into the United States under the laws of the United States pending a decision on his application for admission as a citizen thereof on his claim of being a foreign-born son of a citizen of the United States named Ng Ming Yin; that, at a hearing before Board of Special Inquiry at the Seattle Immigration Station, the said NG FOOK failed to furnish satisfactory proof that he was a son of Ng Ming Yin and his application for admission into the United States was denied for that reason and also on the ground that his admission is prohibited by Section 13 (a) and Section 13 (c) of the Immigration Act of 1924 and the Chinese Exclusion laws, and for the further reason that his alleged father, Ng Ming Yin, is not a citizen of the United States; that the said NG FOOK appealed from this decision of the Board of Special

Inquiry to the Secretary of Labor and thereafter the decision of the Board of Special Inquiry was affirmed by the Secretary of Labor and the said NG FOOK was ordered returned to China; that, since the final decision of the Secretary of Labor, respondent has held, and now holds and detains, the said NG FOOK for deportation from the United States as an alien person not entitled to admission into the United States under the laws of the United States, and subject to deportation under the laws of the United States.

The Original record of the Department of Labor, including all exhibits, both on the hearing before the Board of Special Inquiry at [9] Seattle, Washington, and on the submission of the record on the appeal to the Secretary of Labor at Washington, D. C., in the matter of the application of NG FOOK for admission into the United States, is hereto attached and made a part and parcel of this Return, as fully and completely as though set forth herein in detail.

WHEREFORE, respondent prays that the petition for a Writ of Habeas Corpus be denied.

MARIE A. PROCTOR

United States of America,
Western District of Washington,
Northern Division—ss:

MARIE A. PROCTOR, being first duly sworn on oath deposes and says: That she is United States Commissioner of Immigration and Naturalization at the Port of Seattle, Washington, and the re-

spondent named in the foregoing Return; that she has read the foregoing Return, knows the contents thereof and believes the same to be true.

MARIE A. PROCTOR

Subscribed and sworn to before me this 12th day of June, 1936.

[Seal]

D. L. YOUNG

Notary Public in and for the State of Washington,
residing at Seattle.

[Endorsed]: Filed July 7, 1936. [10]

[Title of Court and Cause.]

JOURNAL ENTRY DENYING PETITION FOR
WRIT OF HABEAS CORPUS.

Now on this 20th day of July, 1936, at 2 P. M., Edward H. Chavelle, Esq., appearing for the plaintiff, and F. A. Pellegrini, Assistant United States District Attorney appearing for the Government, this cause comes on for hearing on Return to Order to Show Cause. Arguments of counsel are heard at length. Writ of Habeas Corpus is denied and rule discharged. Exception allowed.

Journal No. 23, Page 962. [11]

In the District Court of the United States for the
Western District of Washington, Northern
Division.

No. 21041.

In the Matter of the Application of
NG FOOK
For a Writ of Habeas Corpus.

ORDER DENYING WRIT.

The above entitled matter having duly come on for hearing before this court, upon the Return of the United States Commissioner of Immigration and Naturalization to the order to show cause theretofore entered herein, the respective parties being represented by Edward H. Chavelle for the petitioner, and J. Charles Dennis and F. A. Pellegrini, United States Attorney and Assistant United States Attorney, respectively, for the respondent, and the court being fully advised in the premises, having directed that the order to show cause be dismissed;

NOW THEREFORE, IT IS BY THIS COURT ORDERED, ADJUDGED AND DECREED that said order to show cause be and the same is hereby dismissed. IT ALSO IS FURTHER ORDERED, ADJUDGED AND DECREED THAT the Writ of Habeas Corpus as prayed for be, and the same is hereby DENIED: PROVIDED, however, that the petitioner may, within thirty days, file notice of appeal, and, in the event that appeal be taken,

and on condition that the petitioner shall deposit with the Commissioner of Immigration and Naturalization at Seattle such sum or sums of money as may be required for said petitioner's maintenance at the Seattle, Washington, Immigration Station during the pendency of said appeal, deportation shall be stayed pending the determination of said appeal by the United States Circuit Court of Appeals for the Ninth Circuit, or by the United States Supreme Court should the cause be taken to that Court on appeal.

DONE IN OPEN COURT this 14th day of October, 1936.

JOHN C. BOWEN,
United States District Judge. [12]

Presented by
HOWARD HEDGCOCK for
EDWARD H. CHAVELLE,
Atty for Petitioner.

O. K. as to form.
J. CHARLES DENNIS,
by F. A. Pellegrini,
Asst. U. S. Atty.

Received a copy of the within order this 14 day of Oct., 1936.

J. CHARLES DENNIS,
Attorney for Respondent.

[Endorsed]: Filed Oct. 14, 1936. [13]

[Title of Court and Cause.]

PETITION FOR APPEAL.

Ng Fook, the appellant above named, deeming himself aggrieved by the order and judgment entered herein on the day of October, 1936, does hereby appeal from the said order and judgment to the United States Circuit Court of Appeals for the Ninth Circuit, and prays that a transcript of the record of the proceedings and papers, together with the immigration record in this case, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Judicial District of the United States.

EDWARD H. CHAVELLE

Attorney for Appellant.

Received a copy of the within Petition for Appeal this day of October, 1936.

.....,

Attorney for Appellee.

Received a copy of the within Petition for Appeal this 14 day of Oct., 1936.

J. CHARLES DENNIS,

Attorney for Respondent.

[Endorsed]: Filed Oct. 14, 1936. [14]

[Title of Court and Cause.]

NOTICE OF APPEAL.

TO: Marie A. Proctor, United States Commissioner of Immigration and Naturalization at the Port of Seattle, and J. Charles Dennis, her Attorney:

You, and each of you, are hereby notified that the appellant above named, Ng Fook, hereby and now appeals from that certain order, judgment and decree made herein by the above entitled court on the day of October, 1936, adjudging, holding, finding and decreeing that the above named petitioner be denied a writ of habeas corpus, and from the whole thereof, to the United States Circuit Court of Appeals for the Ninth Circuit.

EDWARD H. CHAVELLE

Attorney for Appellant.

Received a copy of the within Notice of Appeal this 14 day of October, 1936.

J. CHARLES DENNIS

Attorney for Appellee.

[Endorsed]: Filed Oct. 14, 1936. [15]

[Title of Court and Cause.]

ASSIGNMENT OR ERRORS.

The court erred in holding and deciding that a writ of habeas corpus should be denied to the peti-

tioner herein, denying him admission to the United States as a citizen thereof.

EDWARD H. CHAVELLE

Attorney for Appellant.

Received a copy of the within Assignment of Errors this 14 day of October, 1936.

J. CHARLES DENNIS

Attorney for Apellee.

U. S. Atty.

[Endorsed]: Filed Oct. 14, 1936. [16]

[Title of Court and Cause.]

ORDER ALLOWING APPEAL.

Now, on, to-wit, this 14th day of October, 1936, it is ordered that the appeal herein be allowed as prayed for; and it is further ordered that the Commissioner of Immigration at the Port of Seattle shall retain custody of said appellant pending appeal and the further orders of this Court and the orders of the United States Circuit Court of Appeals for the Ninth Circuit, the petitioner herein being required to pay his maintenance at the United States Immigration Station while so detained.

Done in open court this 14th day of October, 1936.

JOHN C. BOWEN

U. S. District Judge.

Received a copy of the within Order this
day of October, 1936.

.....,
Attorney for Appellee.

O. K. as to form.

J. CHARLES DENNIS

U. S. Atty.

By F. A. PELLEGRINI

Asst.

Presented by

HOWARD W. HEDGCOCK

for Edward H. Chavelle,

Atty. for Petitioner.

Received a copy of the within Order allowing
Appeal this 14 day of Oct., 1936.

J. CHARLES DENNIS,

Attorney for Respondent.

[Endorsed]: Filed Oct. 14, 1936. [17]

[Title of Court and Cause.]

STIPULATION RE TRANSMISSION OF
ORIGINAL RECORD AND FILE OF DE-
PARTMENT OF LABOR.

It is hereby stipulated and agreed by and between
EDWARD H. CHAVELLE, attorney for petitioner
above named, and J. CHARLES DENNIS, attorney
for respondent, Marie A. Proctor, United States
Commissioner of Immigration, that the original
file and record of the Department of Labor covering

the proceedings against the petitioner above named may be by the Clerk of this court sent up to the Clerk of the Circuit Court of Appeals, as a part of the appellate record, in order that the said original immigration file may be considered by the Circuit Court of Appeals, in lieu of a certified copy of said record and file, that said original records may be transmitted as a part of the appellate record.

EDWARD H. CHAVELLE

Attorney for Petitioner.

J. CHARLES DENNIS

United States Attorney.

F. A. PELLEGRINI

Assistant United States
Attorney.

Received a copy of the within Stipulation this 14 day of Oct., 1936.

J. CHARLES DENNIS

Attorney for Respondent.

[Endorsed]: Filed Oct. 14, 1936. [18]

[Title of Court and Cause.]

ORDER FOR TRANSMISSION OF ORIGINAL
RECORD OF DEPARTMENT OF LABOR.

Upon stipulation of counsel, it is by the Court ORDERED, and the Court does hereby ORDER, that the Clerk of the above entitled court transmit with the appellate record in said cause the original file and record of the Department of Labor, cover-

ing the deportation proceedings against the petitioner directly to the Clerk of the Circuit Court of Appeals, in order that the said original immigration file may be considered by the Circuit Court of Appeals in lieu of a certified copy of said record.

Done this 14 day of October, 1936.

JOHN C. BOWEN

United States District Judge.

Received a copy of the within Order this
day of October, 1936.

J. CHARLES DENNIS

Attorney for Appellee.

O. K. as to form.

J. CHARLES DENNIS,

U. S. Atty.

F. A. PELLEGRINI,

Asst. U. S. Atty.

J. CHARLES DENNIS

Attorney for Respondent.

Presented by

HOWARD W. HEDGCOCK for

Edward H. Chavelle,

Atty. for Petitioner.

Received a copy of the within Order this 14 day
of Oct., 1936.

[Endorsed]: Filed Oct. 14, 1936. [19]

[Title of Court and Cause.]

PRAECIPE FOR TRANSCRIPT OF RECORD.

To the Clerk of the Above Entitled Court:

You will please prepare and duly authenticate the transcript and following portions of the record in the above entitled case for appeal of the said appellant, heretofore allowed to the United States Circuit Court of Appeals for the Ninth Circuit:

1. Petition for writ of habeas corpus.
2. Return.
3. Decision.
4. Order denying writ.
5. Petition for appeal.
6. Notice of appeal.
7. Order allowing appeal.
8. Assignment of errors.
9. Citation.
10. Stipulation.
11. Order for transmission of original record.
12. This praecipe.

EDWARD H. CHAVELLE

Attorney for Appellant.

Received a copy of the within Praecipe this
..... day of October, 1936.

.....,

Attorney for Appellee [20]

Received a copy of the within Praecipe this 14
day of Oct., 1936.

J. CHARLES DENNIS

Attorney for Respondent.

[Endorsed]: Filed Oct. 14, 1936. [21]

[Title of Court and Cause.]

CERTIFICATE OF CLERK U. S. DISTRICT
COURT TO TRANSCRIPT OF RECORD.

United States of America,
Western District of Washington—ss:

I, Edgar M. Lakin, Clerk of the above entitled Court, do hereby certify that the foregoing type-written transcript of record, consisting of pages numbered from 1 to 21, inclusive, is a full, true and complete copy of so much of the record, papers and other proceedings in the above and foregoing entitled cause, as is required by praecipe of counsel filed and shown herein, as the same remain of record and on file in the office of the Clerk of said District Court at Seattle, and that the same constitute the record on appeal herein from the final decree and judgment denying writ, filed October 14, 1936, to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that the following is a true and correct statement of all expenses, costs, fees and charges incurred in my office by or on behalf of the appellant for making record, certificate or return to the United States Circuit Court of Appeals for the Ninth Circuit, to wit:

Clerk's fees (Act of Feb. 11, 1925) for making record, certificate or return, 39 folios at 15¢.....	\$ 5.85
Appeal fee (Sec. 5 of Act).....	5.00
Certificate of Clerk to Transcript.....	.50
Certificate of Clerk to Original Exhibits	.50

Total\$11.85

I hereby certify that the above cost has been paid to me by the attorney for the appellant.

I further certify that I attach hereto and transmit herewith the original citation on appeal issued in this cause.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of said District Court, at Seattle, in said District, this 21st day of October, 1936.

[Seal]

EDGAR M. LAKIN,

Clerk United States District
Court, Western District of
Washington.

By

Deputy. [22]

[Title of Court and Cause.]

CITATION ON APPEAL.

United States of America—ss:

To: Honorable Marie A. Proctor, United States
Commissioner of Immigration at the Port of
Seattle, Greeting:

WHEREAS, Ng Fook has lately appealed to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment, order and decree lately, to-wit, on the 14th day of October, 1936, rendered in the District Court of the United States for the Western District of Washington, Northern Division, made in favor of you, adjudging and decreeing that the writ of habeas corpus as prayed for in the petition herein be denied.

You are therefore cited to appear before the United States Circuit Court of Appeals for the Ninth Circuit, in the City of San Francisco, State of California, within the time fixed by statute, to do and receive what may obtain to justice to be done in the premises.

Given under my hand in the City of Seattle, in the Ninth Circuit, this 14th day of October, 1936, and the Independence of the United States the one hundred and sixtieth.

[Seal]

JOHN C. BOWEN

U. S. District Judge.

Received a copy of the within Citation this 14 day of Oct., 1936.

J. CHARLES DENNIS

Attorney for Respondent.

[Endorsed]: Filed Oct. 14, 1936. [23]

[Endorsed]: No. 8364. United States Circuit Court of Appeals for the Ninth Circuit. Ng Fook, Appellant, vs. Marie A. Proctor, United States Commissioner of Immigration at the Port of Seattle, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Western District of Washington, Northern Division.

Filed October 26, 1936.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.